



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 10, 2020 which reads as follows:

“G.R. No. 245998 (*People of the Philippines v. Vinson Lalu y Lim and Allan Cabanayan y Toledo*)

The Case

This appeal¹ assails the Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 09508 dated August 13, 2018² affirming appellants’ conviction for violation of Section 11, Article II of Republic Act 9165 (RA 9165).³

The Proceedings Before the Trial Court

The Charge

By two (2) separate Informations dated August 19, 2016, appellants Vinson Lalu y Lim and Allan Cabanayan y Toledo were charged with violation of Section 11, Article II of RA 9165, thus:

For Criminal Case No. 16-327860 – Section 11 (2), RA 9165 – Vinson Lalu y Lim

That on or about August 12, 2016, in the City of Manila, Philippines, the said accused, not being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully, and knowingly have in his possession and under his custody and control one (1) heat-sealed transparent plastic sachet

- over – eleven (11) pages ...

46

¹ Filed under Rule 45 of the Rules of Court.

² Penned by Associate Justice Carmelita Salandanan Manahan and concurred in by Associate Justices Romeo F. Barza (Formerly Presiding Justice and Chairperson) and Stephen C. Cruz; *rollo*, pp. 3-13.

³ Otherwise known as the Comprehensive Dangerous Drugs Act of 2002.

marked as “VLL” 8/12/16 with signature containing FIVE POINT EIGHT THREE ONE (5.831) grams of white crystalline substance known as Methamphetamine hydrochloride, commonly known as “*shabu*”, a dangerous drug.

CONTRARY TO LAW.

For Criminal Case No. 16-327861 – Section 11 (3), RA 9165 – Allan Cabanayan y Toledo

That on or about August 12, 2016, in the City of Manila, Philippines, the said accused, not being authorized by law to possess any dangerous drug, did then and there willfully, unlawfully, and knowingly have in his possession and under his custody and control one (1) heat-sealed transparent plastic sachet marked as “ATC” 8/12/16 with signature containing ZERO POINT ONE NINE FOUR (0.194) gram of white crystalline substance known as Methamphetamine hydrochloride, commonly known as “*shabu*”, a dangerous drug.

CONTRARY TO LAW.

The cases were raffled to the Regional Trial Court (RTC) – Branch 42, Manila. Upon prosecution’s motion, the two (2) cases were consolidated.⁴

On arraignment, appellants pleaded *not guilty*.

During the trial, arresting officers PO1 Rei Karlmarx Magtajas (PO1 Magtajas) and PO1 Marcelo Dot-al (PO1 Dot-al), testified for the prosecution, while appellants testified as witnesses for the defense.⁵

The Prosecution’s Version

PO1 Magtajas testified that on August 12, 2016 around 8 o’clock in the evening, he and three (3) other police officers (PO1 Mark Valentin Lagutin, PO1 Joker Juego (PO1 Juego), and PO1 Dot-al) were patrolling Recto Avenue as part of the Anti-Crime Clearing Operation. Upon reaching Camba Street, they saw three (3) men seated around a table, playing cards and holding money. One of the men saw the police officers and immediately ran away, prompting PO1 Juego and PO1 Magtajas to give chase.⁶ Meanwhile, PO1 Lagutin and PO1 Dot-al apprehended appellants Lalu and Cabanayan, respectively.

- over -
46

⁴ *Rollo*, p. 4.

⁵ *CA rollo*, pp. 45-50.

⁶ *Rollo*, p. 76.

PO1 Magtajas frisked Lalu and discovered a plastic sachet containing white crystalline substance tucked in the garter of the latter's basketball shorts. He recovered the sachet and placed it inside the front pocket of his uniform. To avoid any untoward incident in the busy street with many bystanders, they immediately brought appellants to Police Station 11. There, he marked the sachet "VLL 8-12-16" and witnessed the marking of the other sachet recovered from Cabanayan.⁷

The seized items were promptly photographed and inventoried at the police station and in the presence of *Barangay Kagawad* Jovito Pintor and media personnel Danny Garendola.⁸

After the inventory and photograph, the officers prepared the request for laboratory examination of the seized items. Meantime, he kept the items in his custody. Around 11:45 that evening, the team arrived at the crime laboratory where he personally turned over the seized items to forensic chemist PSI Jeffrey A. Reyes for examination.⁹

On the other hand, **PO1 Dot-al** essentially corroborated PO1 Magtajas' testimony on the material points. He added, though, that after he apprehended Cabanayan, he frisked him and found a sachet of suspected *shabu* tucked in the waistband of his shorts. He (PO1 Dot-al) placed the seized item inside his bag to protect it, immediately left the area, and proceeded to the police station to avoid commotion. At the police station, he marked the sachet he seized from Cabanayan "ATC" in the presence of Pintor and Garendola.¹⁰

The prosecution offered the following documentary evidence: Joint Affidavit of Complaint and Apprehension (Exhibit "A" and sub-markings); Certification issued by Police Chief Inspector Fernando Recto Reyes (Exhibit "B"); Booking Sheet and Arrest Report for Accused Vinson Lalu and Allan Cabanayan (Exhibit "C" and sub-markings); Chemistry Report No. D-1075-16 and D-1076-16 (Exhibit "D" and sub-markings); Receipt of Property/Evidence Seized from accused Lalu and Cabanayan (Exhibit "E" and "E-1"); Request for Laboratory Examination (Exhibit "F" and sub-markings); Chain of Custody (Exhibit "G" and sub-markings); Photographs of accused and the evidence seized (Exhibit "H" and sub-markings); Sachets (Exhibit "I" and "I-1"); Commitment Certificates (Exhibit "J" and "J-1").¹¹

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⁷ CA rollo, p. 46.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 47.

¹¹ *Id.*

The Defense's Evidence

Appellant Lalu testified that on the evening of August 12, 2016, he was outside his house along Camba Street having a conversation with his neighbors when around thirty (30) police officers arrived and rounded up the men in the area, including him. The officers frisked them and when they tried to protest, they were told it was merely for verification purposes. Although nothing was recovered from him, the officers brought him to the police station where his money and cellphone were confiscated. They also took photos of him with evidence and documents already prepared on a table. He tried to refuse participation in the proceedings, but the officers beat him up and tortured him. As for the charge of illegal gambling, he denied having committed the crime, not even knowing how to play *tong-its*.¹²

Appellant Cabanayan also denied the charges. On August 12, 2016, he was at home watching television when around ten (10) police officers went inside his house and asked if he was "Allan." When answered in the affirmative, the officers asked him to go with them but he refused. He only acceded when his mother pleaded for him to go with them. At the station, the officers asked him to pinpoint another person to take his place "*para itokhang*," but he failed to find a substitute so he was put in jail.¹³

The parties dispensed with the testimony of the forensic chemist PSI Reyes and stipulated on his *bona fide* membership with the Philippine National Police; his qualification and expertise as forensic chemist; his receipt of the request for laboratory examination; his receipt of the specimen from PO1 Magtajas; his ability to identify the items received from PO1 Magtajas; his lack of personal knowledge on circumstances of the arrest; and the result of the qualitative examination of the specimen.¹⁴

The Trial Court's Ruling

As borne by its Decision dated June 15, 2017,¹⁵ the trial court rendered a verdict of conviction, *viz*:

WHEREFORE, judgment is rendered as follows

In Criminal Case No. 16-327760, finding accused VINSON

- over -

46

¹² *Id.* at 48-49.

¹³ *Id.* at 49.

¹⁴ *Id.* at 45.

¹⁵ Penned by Presiding Judge Dinnah C. Aguila-Topacio; *rollo*, pp. 43-57.

LALU y LIM guilty beyond reasonable doubt of the crime of violation of Sec. 11(2) Art. II of RA 9165 and, since the dangerous drug involved is 5.831 grams, sentencing him to suffer the penalty of imprisonment of twenty (20) years and one (1) day to life imprisonment, to pay the fine of ₱400,000.00; and to pay the costs.

In Criminal Case NO. 16-327861, finding accused ALLAN CABANAYAN y TOLEDO guilty beyond reasonable doubt of the crime of Sec. 11 (3) Art. II of RA 9165, and since the dangerous drug involved is 0.194 gram, sentencing him to suffer the indeterminate penalty of twelve (12) years, as minimum to fourteen (14) years as the maximum penalty, to pay a fine of ₱300,00.00; and to pay the costs.

The drugs subject matter of these cases are confiscated in favor of the Government, the same to be turned-over to the proper government authority.

SO ORDERED.¹⁶

It ruled that all the elements of the crime were sufficiently established, the seized items and their evidentiary value were properly preserved, and the *corpora delicti* were positively identified.¹⁷

The Proceedings Before the Court of Appeals

On appeal, appellants faulted the trial court for rendering the verdict of conviction despite the prosecution's purported failure to establish the integrity and identity of the seized item beyond reasonable doubt, and to observe the chain of custody rule, *viz*:

First, the *corpora delicti*'s identity and integrity were rendered doubtful when PO1 Magtajas and PO1 Dot-al placed the seized items in their pocket and bag, respectively, without duly marking them first.¹⁸

Second, the turnover of the seized item to the case investigator PO2 Teddy L. Lim was not reflected in the undated Chain of Custody Forms¹⁹ despite the fact that he handled the alleged seized items.²⁰

- over -

46

¹⁶ CA rollo, p. 57.

¹⁷ *Id.* at 56-57.

¹⁸ *Id.* at 35-36.

¹⁹ Exhibit "G".

²⁰ CA rollo, p. 38.

Finally, there was also an unclear turnover of evidence from the forensic chemist to the court since this detail was not shown in the undated Chain of Custody Forms.²¹

The Office of the Solicitor General (OSG), through Assistant Solicitor General Henry S. Angeles, Assistant Solicitor General Anna Esperanza R. Solmon and State Solicitor Emmeree C. Sison-Atanis defended the verdict of conviction.²² It argued that all the elements of illegal sale of dangerous drugs were established; the integrity and evidentiary value of the seized items were preserved despite non-compliance with Section 21, RA 9165; the positive testimonies of prosecution witnesses were more credible than appellants' claims of denial and frame-up; and the *corpora delicti* were identified during trial.

The Court of Appeals' Ruling

By Decision dated August 13, 2018, the Court of Appeals affirmed.²³ It found that all the elements of the crime were present, appellants were positively identified in open court; the chain of custody was not broken; and the integrity of the seized items was preserved.

The Present Appeal

Appellants now seek a verdict of acquittal through the present appeal.²⁴

In compliance with Resolution dated July 10, 2019, both appellants²⁵ and the OSG²⁶ manifested that in lieu of supplemental briefs, they were adopting their respective briefs before the Court of Appeals.

Issue

Did the Court of Appeals err in affirming the trial court's verdict of conviction despite the attendant procedural deficiencies relative to the chain of custody over the *corpora delicti*?

- over -
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²¹ *Id.*

²² *Id.* at 68-97.

²³ Penned by Associate Justice Carmelita Salandanan Manahan and concurred in by Associate Justices Romeo F. Barza (Formerly Presiding Justice and Chairperson) and Stephen C. Cruz; *rollo*, pp. 3-13.

²⁴ *CA rollo*, pp. 116-117.

²⁵ *Rollo*, pp. 39-41.

²⁶ *Id.* at 31-34.

Ruling

We acquit.

To ensure the integrity of the seized drug item, the prosecution must account for each link in its chain of custody:²⁷ *first*, the seizure and marking of the illegal drug recovered from the accused by the apprehending officer; *second*, the turnover of the illegal drug seized by the apprehending officer to the investigating officer; *third*, the turnover by the investigating officer of the illegal drug to the forensic chemist for laboratory examination; and *fourth*, the turnover and submission of the marked illegal drug seized by the forensic chemist to the court.²⁸

Records show that the arresting officers here had breached the aforesaid rules.

Prosecution witness PO1 Magtajas testified:

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Q What did you do after you were in possession of the specimen and handcuffed Vinson Lalu?

A We proceeded to the police station 11, sir.

Q Is it not Mr. Witness that as a procedure you have to mark the seized evidence?

A Because there were many persons coming and we are avoiding commotion to the place of the incident, sir.

Q So you went to the police station 11?

A Yes, sir.

Q You said you were the one who recovered the evidence from Vinson Lalu?

A Yes, sir.

- over -

46

²⁷ As defined in Section 1(b) of Dangerous Drugs Board Regulation No. 1, Series of 2002:

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b. "Chain of Custody" means the duly recorded authorized movements and custody of seized drugs or controlled chemicals or plant sources of dangerous drugs or laboratory equipment of each stage, from the time of seizure/confiscation to receipt in the forensic laboratory to safekeeping to presentation in court for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item, the date and time when such transfer of custody were made in the course of safekeeping and use in court as evidence, and the final disposition[.]

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²⁸ *Jacson v. People*, G.R. No. 199644, June 19, 2019, citing *People v. Dahil*, 750 Phil. 221, 231 (2015).

Q And where did you keep the evidence you recovered from Vinson Lalu?

A In my pocket, sir because we have pocket in front of our old uniform, sir.²⁹
(Emphasis supplied)

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Prosecution witness PO1 Dot-al materially corroborated PO1 Magtajas' narration of facts and added:

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Q Mr. Witness, so it was on Camba Street where you saw these three (3) persons who [were] engaged in tong-its?

A Yes, sir.

Q And, for you, there was already a violation?

A Yes, sir.

Q While you were there to the [sic] three persons, what happened when you went to the three persons?

A When I approached them, I assisted PO1 Juego.

Q Then, what happened?

A I frisked the suspect Allan Cabanayan.

Q You said you frisked Allan Cabanayan, what was the result, if any, after you frisked Allan Cabanayan?

A I told him to loosen the garter of his short pants, then I saw a suspected *shabu* at his left side waist.

FISCAL MENDOZA

Q What did you do after you saw and observed a sachet at his left waist line?

WITNESS

A I took that and placed it in my bag.

Q After you placed it in your bag, what happened next?

A I introduced myself as police officer and apprised him of his constitutional rights. Then after that, we left the place after apprehension and we proceeded to the Police Station together with the suspect.

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46

²⁹ CA rollo, pp. 81-82.

Q Did you notice if your companions, these police officers recovered anything from Vinson Lalu?

A He also recovered one (1) crystalline sachet.

Q You mentioned earlier that you went to the Police Station, isn't it?

A Yes, sir.

Q **You also mention[ed] that it is a standard operating procedure that when you seized a specimen evidence, you do the markings at the place of the incident?**

A Yes, sir.

Q **At Camba Street?**

A **No, sir, at the Police Station, Sir.**

Q **Why did you not do that in the area, the markings of the recovered specimen from Cabanayan?**

A **Because sir, during that time, it was in the evening and there were many people at that time, and we want to prevent the evidence from being contaminated or destroyed. We brought it to the police station in order to mark them.³⁰**
(Emphasis supplied)

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First, as admitted by the prosecution witnesses themselves, the seized item was not immediately marked upon the arrest of appellant. The Court held in *People v. Garcia*³¹ that marking of the seized item immediately after seizure is vital to ensure its integrity and veracity by preventing switching, planting, or contamination of evidence.³²

Here, PO1 Magtajas and PO1 Dot-al testified that they kept the seized items in their pocket and bag, respectively, without marking them first. This casts serious doubt on the identity of the items that were later inventoried. For we cannot foreclose the possibility that what the officers marked at the police station might not be the same items allegedly found in the possession of appellants.

Second, the forensic chemist did not account for the manner by which he preserved the specimens from their examination up to their

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³⁰ *Id.* at 85-87.

³¹ G.R. No. 230983, September 4, 2019, citing *People v. Ramirez*, G.R. No. 225690, January 17, 2018, and *People v. Sanchez*, 590 Phil. 214, 241 (2008).

³² *Sanchez*, citing *People v. Nuarin*, 764 Phil. 550, 557-558 (2015).

delivery to the trial court. In *People v. Ubungen*,³³ the Court ruled that absent any testimony on the management, storage, and preservation of the seized illegal drug, the fourth link in the chain of custody could not be reasonably established.

Here, the parties stipulated what would have been the testimony of forensic chemist PSI Reyes on: his qualifications and expertise; his receipt of the request and the specimen; his ability to identify the seized items from PO1 Magtajas; and the result of the qualitative examination. There was no mention of management, storage, and preservation of the seized items from his receipt up to delivery to the trial court.

Indeed, the chain of custody here had been broken from its incipience up until its final stages. Although a saving clause in the Implementing Rules and Regulations of RA 9165 allows deviation from established protocol, this is subject to the condition that justifiable grounds exist and “so long as the integrity and evidentiary value of the seized items are properly preserved.”³⁴ Here, since the arresting officers offered no valid explanation for the procedural deficiencies, the saving clause cannot be validly invoked.

Verily, a verdict of acquittal is in order.

WHEREFORE, the appeal is **GRANTED**. The Decision of the Court of Appeals dated August 13, 2018 in CA-G.R. CR-H.C. No. 09508 is **REVERSED** and **SET ASIDE**.

VINSON LALU y LIM and ALLAN CABANAYAN y TOLEDO are **ACQUITTED**. The Director of the Bureau of Corrections, Mandaluyong City is ordered to a) immediately release them from custody unless they are being held for some other lawful cause; and b) submit his report on the action taken within five (5) days from notice. Let entry of final judgment be issued immediately.

The accused-appellants’ manifestation in lieu of supplemental brief, pursuant to the Resolution dated July 10, 2019, is **NOTED**.

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³³ G.R. No. 225497, July 23, 2018.

³⁴ See Section 21 (a), Article II, of the IRR of RA 9165.

SO ORDERED.” *Reyes, J. Jr, J., on leave.*

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court

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Court of Appeals (x)
Manila
(CA-G.R. CR HC No. 09508)

The Hon. Presiding Judge
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(Crim. Case Nos. 16-327860 & 16-327861)

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